IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

Crl.MC.No. 3566 of 2007()

ST.260/2006 OF THE JUDICIAL MAGISTRATE OF FIRST CLASS II, KOCHI)
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PETITIONER:

RAJESH M.BATHJA,
S/O MURALEEDHRAN BATAHIGA,
AGED 39 YEARS, NO.12, PLAY GROUND STREET,
KILLPAUK GARDEN COLONY, CHENNAI-600010.

BY ADV. SRI.O.V.MANIPRASAD

RESPONDENTS:
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1. THE STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. TROPICAL AGENCIES,
IYATTUMUKKU JUNCTION, OFF. M.G.ROAD,
ERNAKULAM, REPRESENTED BY ITS POWER OF ATTORNEY
HOLDER M.ASIF.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3566 OF 2007

Dated this the 28th day of November, 2007

O R D E R

The petitioner faces indictment in a prosecution under section 138 of the Negotiable Instruments Act, 1881. According to the petitioner, he was never served with any process and he had no knowledge of the proceedings initiated against him. Reckoning him as an absconding accused, coercive processes have been issued against the petitioner by the learned Magistrate. Such processes chase the petitioner now.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in ***Alice George vs. Deputy Superintendent of Police*** [2003 (1) KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

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